

806 KAR 5:060. Registration of service contracts for consumer products.

RELATES TO: KRS 304.5-070

STATUTORY AUTHORITY: KRS 304.5-070(1)(q)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.5-070(1)(q) requires that makers of service contracts who repair, replace, or maintain consumer products register with the Commissioner to be exempt from the definition of casualty insurance. This administrative regulation establishes the filing requirements for that registration.

Section 1. Definitions. (1) "Casualty insurance" is defined by KRS 304.5-070.

(2) "Maker of a service contract" or "maker" is the entity contractually obligated under the terms of the service contract.

Section 2. Registration Required. A maker of a service contract seeking exemption from the definition of casualty insurance shall register with the commissioner by submitting:

- (1) The name and address of its principal office; and
- (2) Evidence of financial security demonstrated by one (1) of the following:
 - (a) Evidence of at least \$100,000,000 dollars in net worth; or
 - (b) Evidence of an insurance policy or performance bond that:

1. Shall not be terminated unless at least thirty (30) days prior written notice is given to the commissioner;

2. States that the holder of a service contract shall be entitled to make a direct claim against the insurer upon the failure of the maker to pay any claim within sixty (60) days after the claim has been filed with the maker; and

3.a. Assures performance of the duties of the maker for all service contracts issued in Kentucky; or

b. Is written for an amount of \$50,000 or twenty-five (25) percent of the maker's annual revenues from the service contracts issued in Kentucky, whichever is greater.

Section 3. Establishing Evidence for Registration. A maker of a service contract providing evidence required by Section 2 of this administrative regulation may submit:

- (1) A current annual report;
- (2) A copy of its 10K or 20F form as filed with the Securities Exchange Commission;
- (3) A financial statement audited by an independent certified public accountant in conformity with generally accepted accounting practices; or
- (4) A copy of the insurance policy or performance bond, accompanied by the following information, signed and certified under oath by an officer of the company:

(a) The amount of annual revenues from the sales of service contracts in Kentucky for the previous year ending December 31; and

(b) A projection of the revenue from service contracts to be sold in Kentucky for the current year.

Section 4. Changes to Registration. A registered maker of a service contract shall immediately notify the commissioner in writing of any change that would:

- (1) Decrease the net worth of the maker below \$100,000,000 dollars; or
- (2) Result in the termination of the insurance policy or performance bond.

Section 5. Registration Approval, Renewal, Cessation, and Revocation. (1) If the initial registration has not been affirmatively accepted or rejected by the commissioner within thirty (30)

days of filing, registration requirements shall be determined as met.

(2) After the initial registration, each maker of a service contract shall file an updated report annually, on or before March 1.

(3) If a maker ceases issuing service contracts, the maker shall continue to file annual reports through the duration of all outstanding service contracts.

(4) If at any time, the maker fails to demonstrate compliance with this administrative regulation, the commissioner may revoke the maker's registration. Upon revocation of registration, the maker shall immediately cease issuing service contracts to consumers in Kentucky. (23 Ky.R. 2368; eff. 2-10-97; TAm eff. 8-9-2007; Crt eff. 2-28-2020; 46 Ky.R. 1366; 2081; 2591; eff. 4-1-2020.)